

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 10, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SELAH ALLIANCE FOR
EQUALITY; COURTNEY
HERNANDEZ; REV. DONALD
DAVIS, JR; LAURA PEREZ;
ANITA CALLAHAN; KALAH
JAMES; CHARLOTTE TOWN;
AMANDA WATSON; and ANNA
WHITLOCK

Plaintiffs,

v.

CITY OF SELAH; SHERRY
RAYMOND, in her capacity as Mayor
of the City of Selah; and DONALD
WAYMAN, in his official capacity as
City Administrator for the City of
Selah,

Defendants.

NO: 1:20-CV-3228-RMP

ORDER GRANTING THE
PARTIES' MOTION TO EXTEND
DEADLINES AND RESET COURT
DATES

BEFORE THE COURT is the parties' Joint Motion to Extend Remaining
Deadlines and Court Dates by 60 Days, ECF No. 83. Having reviewed the motion,
the record, and being fully informed, the Court finds good cause to grant the parties'
request.

ORDER GRANTING THE PARTIES' MOTION TO EXTEND DEADLINES
AND RESET COURT DATES ~ 1

Accordingly, **IT IS HEREBY ORDERED:**

1. The parties' Joint Motion to Extend Remaining Deadlines and Court Dates by 60 Days, **ECF No. 83**, is **GRANTED**.

2. *Court Dates*

(a) The current **jury** trial date of August 8, 2022, is **STRICKEN** and **RESET** to **October 11, 2022**, at **9:00 a.m.** in **Yakima**, Washington. Counsel estimates a trial length of **ten days**.

(b) The current pretrial conference July 26, 2022, is **STRICKEN** and **RESET** to **September 27, 2022**, at **9:00 a.m.** by **video conference**.

3. *Protocol for Video Hearings*

In the event that a matter is heard by video conference, the parties will be provided connection instructions from the Court via email prior to the hearing, and the parties shall abide by the following:

(a) In advance of participating in a hearing by video conference, all personal equipment, software, and the internet connection should be tested to ensure that a case participant's means of connecting to the hearing is fully operational.

(b) Participants shall contact the courtroom deputy to confirm who will be participating in the hearing, and who, specifically, will be presenting on behalf of their client. Anyone who is not on the courtroom deputy's list will

1 not be allowed to join the hearing. In addition, any participants who are not
2 presenting will not be allowed to be visible on video.

3 (c) Participants *shall not* invite the public to participate in the hearing.
4 Non-parties may listen to hearings by calling the Court's public conference
5 line at 888.363.4749 and entering access code 4939688# five minutes before
6 the hearing begins (no security code is needed).

7 (d) Hearing participants shall mute themselves when not speaking.

8 (e) **No recording or rebroadcasting is permitted for any hearing.**

9 **4. *Motion Practice***

10 (a) All parties shall adhere to LCivR 7.

11 (b) Motions to Expedite, if any, shall be filed separately and noted for
12 hearing at least seven (7) days from the date of filing, pursuant to LCivR
13 7(i)(2)(C). If the matter needs to be heard on a more immediate basis, the
14 party filing the motion shall advise chambers of such.

15 (c) All motions will be heard without oral argument unless oral
16 argument is requested and approved by the Court. If oral argument is
17 desired, the parties must contact the courtroom deputy to acquire a hearing
18 date, *see* LCivR 7(i)(3)(B), and must advise the courtroom deputy why oral
19 argument would be appropriate.

(d) All motion hearings in which oral argument has been approved shall be set for in-person appearance; however, the parties may request to appear by video conference.

(e) Notwithstanding the foregoing procedure, the Court may decide that oral argument is not warranted and proceed to determine any motion without oral argument. *See* LCivR 7(i)(3)(B)(iii).

5. *Exhibit and Witness Lists*

(a) Exhibit lists and witness lists shall be separately filed and served and exhibits made available for inspection (or copies provided), by **August 11, 2022**.

(b) The witness list shall include identification of each witness's testimony. Pretrial disclosure of the identity of all persons shall conform to the requirements of Fed. R. Civ. P. 26(a)(1) (persons with relevant knowledge) and 26(a)(3) (witnesses).

(c) For any expert witness included on the witness list, the proffering party shall e-mail the Rule 26(a)(2) report to the Court at peteronorders@waed.uscourts.gov.

(d) Objections to the opposing party's witness and exhibit lists and any accompanying briefs shall be separately filed and served by **August 18, 2022**.

Failure to comply with this paragraph could be deemed to constitute a waiver

of all objections. Do not submit blanket or boilerplate objections to the opposing party's exhibits; these will be disregarded and overruled.

(e) All exhibits to which there is no objection shall be deemed admitted, subject to any objections at trial that could not be raised in advance.

(f) Responses, if any, to objections to witnesses and exhibits shall be separately filed and served by **August 25, 2022**.

(g) By **August 25, 2022**, the parties shall prepare and file a joint pretrial exhibit stipulation that contains each party's numbered list of all trial exhibits with the opposing party's objections to each exhibit, including the basis of the objection and the offering party's brief response. The pretrial exhibit stipulation shall be substantially in the following form:

Pretrial Exhibit Stipulation

Plaintiffs'/Defendants' Exhibits

Exhibit No.	Description	If Objection, State Grounds	Response to Objection
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(h) Copies of exhibits to which there are objections shall be provided to the Court, on a flash drive or disk, by **August 25, 2022**.

(i) Objections to exhibits and witnesses shall be heard at the pretrial conference.

(j) Where feasible, all exhibits identified in depositions shall be pre-marked with the exhibit numbers that will be used at trial. Plaintiffs' trial

1 exhibits are to be numbered 1 through 199; Defendants' exhibits are to be
2 numbered 200 and following.

3 (k) The Court utilizes JERS (Jury Evidence Recording System) to
4 allow evidence admitted for a trial to be viewed electronically via touchscreen
5 monitor in the jury deliberation room upon the conclusion of the trial. Please
6 note that the jury will receive a verbatim copy of the JERS exhibit list. Please
7 carefully review and follow the instructions provided.

8 [JERS Instruction Sheet for Attorneys](#)

9 **6. *Designation of Testimony***

10 (a) Designation of substantive, as opposed to impeachment, deposition
11 testimony shall be by highlighting and shall be served upon opposing counsel,
12 but *not* filed, by **August 11, 2022**.

13 (b) Cross-designations by highlighting in a different color shall be
14 served, but *not* filed, by **August 18, 2022**.

15 (c) Objections to any designated deposition testimony shall be filed and
16 served by **August 25, 2022**, and shall be heard and resolved at the pretrial
17 conference.

18 (d) Copies of designations to which there are objections shall be
19 provided to the by Court, on a flash drive or disk, by **August 25, 2022**.

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1 **7. *Motions in Limine***

2 (a) All unresolved substantive or evidentiary issues that may
3 foreseeably arise during trial shall be addressed by Motions in Limine to be
4 filed and served by **August 26, 2022**.

5 (b) Responses shall be filed and served by **September 2, 2022**.

6 (c) Replies shall be filed and served by **September 9, 2022**.

7 (d) The parties shall note Motions in Limine for hearing at the pretrial
8 conference.

9 **8. *Pretrial Order***

10 (a) A joint Pretrial Order, prepared in accordance with the format
11 provided in LCivR 16(e) shall be filed by **September 15, 2022**, and a copy e-
12 mailed in Word format to the Court at peterasonorders@waed.uscourts.gov.
13 The Court will *not* accept individually filed pretrial orders.

14 (b) Any facts that are agreed upon by the parties and require no proof
15 must be submitted to the Court prior to trial as written stipulations.

16 (c) The list of exhibits contained in the joint Pretrial Order shall reflect
17 the exhibit marking scheme described above in paragraph 5(j).

18 (d) In preparing the joint Pretrial Order, the parties shall confer
19 regarding duplicate exhibits and determine which party will submit such
20 exhibits for trial.

1 **9. *Trial Briefs and Proposed Voir Dire*** shall be filed by **September 15,**
 2 **2022.**

3 **10. *Jury Instructions***

4 No later than **September 15, 2022**, the parties shall:

5 (a) Confer regarding jury instructions and file jointly proposed jury
 6 instructions and a table of proposed jury instructions for the Court's
 7 consideration.

8 (b) The jointly proposed jury instructions should address only issues
 9 that are unique to this case and shall include instructions regarding the
 10 elements of each count, any necessary definitions, and a proposed verdict
 11 form.

12 (c) All instructions shall be short, concise, understandable, and neutral
 13 statements of the law. Argumentative instructions shall not be submitted or
 14 given.

15 (d) The parties shall electronically provide the Court with a table of
 16 proposed, cited Jury Instructions. The jury instruction table shall be
 17 substantially in the following form:

Proposed by:	Instruction #	9th Cir. Cite	Objection	Response to Objection
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19 (i) This table shall include:

20 (a) The instructions on which the parties agree;

1 (b) The instructions that are disputed; and

2 (c) The basis of any objection.

3 (e) In addition to the jury instruction table, each party shall address
4 any objections they have to instructions proposed by any other party in a
5 memorandum which identifies the specific portion of any proposed instruction
6 to which they object and shall concisely state the basis for the objection.

7 (f) If any proposed instruction is a modified version of model
8 instructions, the parties shall identify the modification and legal authority for
9 the modification.

10 (g) Objections asserting that an instruction sets forth an incorrect or
11 inappropriate statement of law shall cite specific legal authority supporting the
12 objection.

13 (h) Failure to file an objection and supporting memorandum may be
14 construed as consent to the adoption of an instruction proposed by another
15 party.

16 **11.** The Court requires that the following be submitted to the courtroom
17 deputy clerk no later than **October 3, 2022**.

18 (a) The original binder of exhibits together with three discs or flash
19 drives containing copies of the same. Exhibits for presentation at trial shall be
20 placed in a tabbed binder indexed by exhibit number with exhibit tags placed
21 consistently on the bottom right corner of each exhibit.

(b) One copy of a final joint exhibit list.

(c) One copy of witness lists in the order in which the witnesses are expected to be called to testify.

(d) Final copy of video depositions that have been edited pursuant to the Court's rulings on objections.

12. Pursuant to Fed. R. Civ. P. 16, this schedule shall not be modified unless the Court finds good cause to grant leave for modifications. Fed. R. Civ. P. 16(f) provides for sanctions for failure to obey the Scheduling Order.

IT IS SO ORDERED. The District Court Clerk is hereby directed to enter this Order and to provide copies to counsel.

DATED June 10, 2022.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Senior United States District Judge